

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TIMOTHY R. WITTMEYER, )  
                            )  
Petitioner,             )  
                            )  
vs.                      ) Case No. CIV-04-1401-F  
                            )  
LENORA JORDAN and THE )  
ATTORNEY GENERAL OF THE )  
STATE OF OKLAHOMA,     )  
                            )  
Respondents.           )

**ORDER**

The Report and Recommendation of Magistrate Judge Robert E. Bacharach is before the court. (Report, Docket entry no. 22.)

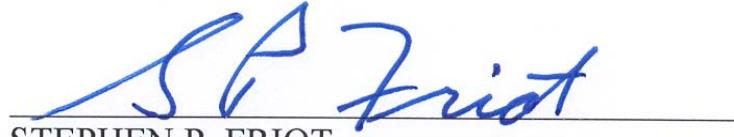
Petitioner is a state inmate who seeks a writ of habeas corpus. Respondent Lenora Jordan has moved to dismiss the petition, based on grounds involving failure to exhaust and procedural default. The Report recommends that the Motion to Dismiss be granted on grounds of procedural default only.

The Report advises the parties that they may seek review of the magistrate judge's recommendation by filing an objection with the clerk of this court by June 7, 2005. The Report further states that failure to make timely objection to the Report waives any right to appellate review of both factual and legal issues contained in the Report. Petitioner, who is represented by counsel, has not objected to the Report and has not filed a request for an extension of time within which to object to the Report.

The court finds that no purpose would be served by repeating here any of the analysis contained in the Report. Having carefully considered the Report, the record, and the relevant arguments and authorities, and with no objection being filed, the court

**ACCEPTS, AFFIRMS, and ADOPTS** the Report of the magistrate judge in its entirety. The Motion to Dismiss is **GRANTED** on grounds of procedural default, and this action is hereby **DISMISSED**.

Dated this 8<sup>th</sup> day of June, 2005.



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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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